

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2011090926

ORDER DENYING MOTION FOR  
STAY PUT

On September 27, 2011, Parent on behalf of Student (Student) filed a Due Process Request which included a motion for stay put. On November 9, 2011, the District filed an opposition to Student’s stay put motion. In his complaint, Student requests that he has not received two hours of in-home behavioral services which was called for in his last implemented Individualized Education Program (IEP). Student’s stay put request is that he receives the in-home services in addition to the other services and placement called for in the last implemented IEP.

The District contends that the last implemented IEP of June 2, 2011 and September 8, 2011, does not include in-home behavioral services, and that the District provided in-home services only for the 2011 extended school year as a result of a settlement of a prior due process matter..

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006)<sup>1</sup>; Ed. Code, § 56505, subd. (d).) This is referred to as “stay put.” For purposes of stay put, the current educational placement is typically the placement called for in the student's IEP which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

In California, “specific educational placement” is defined as “that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to

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<sup>1</sup> All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

an individual with exceptional needs,” as specified in the IEP. (Cal. Code Regs., tit. 5, § 3042.)

#### DISCUSSION

In support of its position, the District has submitted a declaration of Vinita Bhasin, an Assistant Principal and Special Education Supervisor at the Florence Elementary School where Student attends. Bhasin states that the District agreed to provide Student with 1800 minutes of intensive behavioral intervention (BII) and 600 minutes of intensive behavioral development (BID) services per week. Because this level of services was accidentally omitted from the IEP document (although the services were provided), the District had a new IEP document drawn up to include the BII and BID services on September 8, 2011, which was consented to by Parent. At that time, parent requested that the District also provide two hours of behavioral services at home three days per week. The District also submitted as exhibits copies of the June 2, 2011 and September 8, 2011 IEP’s. The last implemented IEP provides that Student receive 1800 minutes of BII and 600 minutes of BID per week. There is no provision requiring that Student receive in-home services.

#### ORDER

Student’s motion for stay put to include six hours of behavioral in-home services per week is denied.

Dated: November 10, 2011

/s/

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings